IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF JUNE

TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE G. BIKSHAPATHY**

**And**

**THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY**

**WRIT PETITION NO : 10322 of 2004**

Between:

B. Appala Naidu, s/o Appala Swamy,
Panchayatraj Sub-Division, V Madugula, Visakhapatnam District.

**..... PETITIONER**

AND

1 State of A.P. rep. by its Secretary, Panchayatraj & RD Dept, Secretariat,Hyderabad.
2 The Engineer-in-Chief, Panchayatraj Department, Govt. of A.P., Hyderabad.
3 Inspector of Police, ACB, Vizianagaram (Respondent No.3 is not necessary party).

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction in the nature of Mandamus or otherwise declaring the Memo No. 789/VS 1/A2/2002-5 dt. 22-3-2003 issued by the 1st respondent and consequential proceedings No. C1(1)/16591/2002 dated 26-4-2003 issued by the 2nd respondent as arbitrary, illegal, discriminatory, unconstitutional, violating Article 14, 16 and 21 of the Constitution of India and set aside the same including order of the Hon'ble Tribunal in O.A.No. 3315 of 2003 dated 18-9-2003 and issue consequential directions directing the respondents to forthwith reinstate the petitioner into service and continue him in service till completion of trial with all consequential benefits in the

interest of justice as otherwise the petitioners will be put to irreparable loss and injury

**For the Petitioner:MR.P.V.KRISHNAIAH**

**For the Respondents: GP FOR SERVICES II.**

**The Court Made the Following :**

ORAL ORDER: (per GB.J.)

The Writ Petition is filed challenging the order passed by the A.P. Administrative Tribunal (for brevity Tribunal) in O.A.No.3315 of 2003, dated 18.9.2003.

2. The petitioner, who was working as Deputy Executive Engineer, Panchayat Raj Sub-division, V.Madugula, Visakhapatnam District, was placed under suspension by an order issued by the 2nd respondent-The Engineer-in-Chief, Panchayat Raj Department, in proceedings No.C(1) 16591/2002, dated 26.4.2003, on the basis of the directions issued by the Government in Memo No.789/VS-I/2002-4, dated 22.3.2003. The said order came to be challenged by the petitioner in the above OA. The Tribunal, however, refused to interfere with the suspension order and dismissed the OA. Against the said dismissal order, the present Writ Petition has been filed.

3. The learned counsel for the petitioner submits that the order passed by the Tribunal is wholly misconceived and the Tribunal did not consider the matter in a proper perspective. According to the learned counsel for the petitioner, in cases of the matters relating to disproportionate assets, the Government itself has issued Memo No.554/Ser.C/93-6, dated 26.12.1994, wherein it has been categorically stated that the suspension need not be resorted to immediately and keeping in view the facts of each case, the Government has to take decision. In the instant case, without

considering the directions issued by the Government and violating its own instructions, directed the authorities to place the petitioner under suspension. Under those circumstances the Tribunal ought to have interfered with the suspension order and set aside the same. He would also submit that when the competent authority himself was satisfied that it is not a case for suspension and recommended for transfer to some other place, the Government ought not to have directed the suspension. Therefore, on both the grounds the order is liable to be set aside.

4. We have also heard the learned Government Pleader for Services-II.

5. Since the suspension order itself is dated 26.4.2003, we are not inclined to interfere with the same. Suffice it to say that the Government is required to review the order of suspension every six months and pass appropriate orders. In the instant case it is now conceded before this Court that the Government has conducted no review so far. Under these circumstances, we find it desirable that the Government should review the order of suspension forthwith keeping in view the instructions issued by it in Memo No.554/Ser.C/93-6, dated 26.12.1994.

Accordingly the Writ Petition is disposed of directing the Government to review the order of suspension passed by the 2nd respondent dated 26.4.2003 keeping the guidelines issued in Memo dated 26.12.1994 in view, within a period of four (04) weeks from the date of receipt of a copy of this order. However, it is left open to the petitioner to make a representation, if any, to the Government in this regard within a period of two (02) weeks from the date of receipt of a copy of this order and the same shall be considered by the Government while reviewing the order of suspension uninfluenced by any observations made by the Tribunal in the above OA. No

costs.

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(G.BIKSHAPATHY, J.)

24TH JUNE, 2004.

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(B.SESHASAYANA REDDY, J.)

SSR

Issue copy in two days.

(BO)

The Hon'ble Sri Justice G.Bikshapathy (for His Lordship's kind perusal).

1.The Secretary, State of A.P. Panchayatraj & RD Dept, Secretariat,Hyderabad.

2.The Engineer-in-Chief, Panchayatraj Department, Govt. of A.P., Hyderabad.

3.The Inspector of Police, ACB, Vizianagaram.

4.2 CCs to Government Pleader for Services-II, High Court Buildings, Hyderabad.

5.2 CD Copies.